

# FOREIGN POLICY ASSOCIATION

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## Protection of Minorities in Europe

IT IS as a danger to peace, both international and internal, that minorities constitute a grave problem in Europe. Oppression of national minorities by the governments under which they live and irredentist activities on the part of their fellow-nationals abroad embitter the relations between the countries concerned, even to the extent of threatening war. Similarly, unjust and discriminatory treatment of minority groups within a state may lead to separatist or revolutionary movements on the part of these groups. For instance, the aims and ideas of the Croats differ to such an extent from those of the Serbs, the dominant group in the Serb-Croat-Slovene state, that so far that country has failed to achieve real unity.

Several incidents of recent occurrence have focussed the attention of the world on the danger to peace inherent in the minorities problem. Probably the most striking of these is the South Tyrol affair. In this case oppression of the minority of German race in the portion of

the Tyrol ceded by Austria to Italy after the war led to violent agitation in Germany and Austria, particularly in Germany. This agitation caused a bellicose speech on the part of the Italian premier, Mussolini, which was regarded as a threat by the German and Austrian governments. The incident was concluded peacefully, as far as the formal utterances of the statesmen were concerned, but the situation in the Tyrol itself remains unchanged.

A still more unstable situation exists in the Balkans, where the various races are inextricably mixed, so that every state includes within its borders large ethnic, linguistic and religious minorities. Macedonia in particular, of which considerable portions inhabited largely by Bulgars were awarded to Greece and Serbia after the war, has been the scene of much discontent and violence.

The problem of the protection of minorities in Europe and the Near East is not new. As a consequence of wars and migrations there is hardly a country which

does not include within its borders large groups of inhabitants differing in race, language, or religion from the majority of the population. These groups are known today as racial, linguistic, and religious minorities. The term applies only to groups which form a part of the native population, not to foreigners—that is, citizens of foreign countries who retain their citizenship and continue to enjoy the protection of their own government while residing abroad.

#### **EARLY PROTECTION OF RELIGIOUS MINORITIES**

The first minority groups to receive special protection were religious minorities. This was accorded them as early as the fifteenth century. Only much later did the national or racial groups attain any recognition.

After the fall of Constantinople in 1453, Mohammed II granted diplomas of investiture or “bérats,” to the Œcumenical Patriarch, the Armenian Patriarch, and the Grand Rabbi, as representatives of “the three conquered nations,” giving them almost unlimited powers of legislation, administration and taxation over the members of their respective congregations. The individual members of these minorities had no rights, but the minorities as a whole were juridical persons having certain rights. Legally this régime governed the relations of the Turkish Government with its Christian and Jewish minorities down to the Treaty of Lausanne of 1923. In spite of their legal rights, the situation of these religious minorities was in practice a precarious one, as shown by the numerous massacres to which they have been subjected during the last two centuries.

In mediaeval times, the Jews living in various countries of Europe were accorded a special position. The Jews formed special groups or communities, which in return for money payments were granted certain privileges of autonomy in religious, judicial, educational and charitable matters. Again it was the minority as a group, not its individual members, to whom these privileges were granted. On the other hand, the Jewish communities were

bound by rigid regulations; for instance, they had to live in strictly defined areas, and were forbidden to engage in certain vocations.

#### **FIRST TREATIES TO PROTECT MINORITIES**

The rights granted to Jewish groups in mediaeval Europe and to religious minorities in the Ottoman Empire, were the result of spontaneous acts of the governing state concerned. International action on behalf of minorities, both by intervention and by treaties, also has a long history behind it.

The capitulations signed by France and Turkey, 1534-1740, which granted certain rights to Frenchmen within the Ottoman Empire, have sometimes been spoken of as guaranteeing the rights of minorities; but actually they safeguarded only the rights of French subjects. However, in a general way France considered herself the protectress of all Roman Catholics in the Ottoman Empire, though she did not generally intervene directly in their behalf until the nineteenth century.

Treaties concluded between Turkey on the one hand and Austria, Poland, or Venice on the other hand go farther than the Franco-Turkish treaties in that they contain provisions granting religious rights to all Roman Catholics in Turkey. As early as 1615 such a treaty was signed by Austria and Turkey. Similarly, treaties entered into between Turkey and Russia safeguarded the rights of all Orthodox Christians in Turkey.

#### **MINORITIES IN CEDED TERRITORIES**

Beginning with the Treaty of Oliva (May 3, 1660) between Sweden and Poland, a number of treaties involving cession of territory contained a clause providing for the maintenance and protection in the ceded territories of the religion existing there before the cession.

Until after the French Revolution, the principle of nationality was not generally recognized. Up to that time the only minorities to whom consideration was given were the religious minorities. Beginning with the treaties of the Congress of Vi-

enna, however, we find provisions safeguarding the rights of national minorities. For instance, the act of acceptance of sovereignty over the Belgic Provinces in the name of the King of the Netherlands (July 21, 1814) guarantees religious, commercial and political equality to all inhabitants of the Netherlands, and promises to the Belgic Provinces proper representation in the Assembly of the States General. Again, the General Act of the Congress of Vienna (June 9, 1815) contains the following provision in regard to the Poles (Article I, paragraph 2):

"The Poles, who are respective subjects of Russia, Austria, and Prussia, shall obtain a representation and national institutions, regulated according to the degree of political consideration that each of the Governments to which they belong shall judge expedient and proper to grant them."

#### MINORITIES IN NEW STATES

Beginning with Greece in 1830, the Powers inaugurated the precedent of making the recognition of new states conditional upon acceptance by the new states of obligations towards their minorities. Protocol III of February 3, 1830, between Great Britain, France and Russia, relative to the independence of Greece, contained the following clause:

"The Plenipotentiaries of the three Allied Courts being desirous moreover of giving to Greece a new proof of the benevolent anxiety of their Sovereigns respecting it, and of preserving that country from the calamities which the rivalry of the religions therein professed might excite, agreed that all the subjects of the new State, whatever may be their religion, shall be admissible to all public employments, functions and honors, and be treated on the footing of a perfect equality, without regard to difference of creed, in all their relations, religious, civil, or political."

The treaty of March 29, 1864, between Great Britain, France, Russia and Greece, by which the Ionian Islands were annexed to Greece, and the treaty of May 24, 1881 by which Thessaly was annexed to Greece, similarly guaranteed the religious, civil and political rights of the inhabitants of the transferred territories.

The same principles were observed in the establishment of Moldavia and Wallachia as autonomous principalities in 1856, and also in the recognition of Rumania,

Serbia and Montenegro as independent states and of Bulgaria as autonomous, by the Treaty of Berlin of July 13, 1878.

In this latter treaty, the Turkish Government undertook "to carry out, without further delay, the improvements and reforms demanded by local requirements in the provinces inhabited by the Armenians, and to guarantee their security against the Circassians and Kurds. It will periodically make known the steps taken to this effect to the Powers, who will superintend their application." This article remained a dead letter.

#### JEWS IN RUMANIA

Another minority which was notoriously discriminated against in spite of treaty engagements was the Jewish minority in Rumania. The treaty of August 19, 1858 concerning the organization of the principalities of Moldavia and Wallachia contained a clause so worded as to allow discrimination against the Jews:

"Moldavians and Wallachians of all Christian confessions shall equally enjoy Political Rights. The enjoyment of these Rights may be extended to other Religions by legislative agreements. . . ."

But no such distinction was made in the treaty of Berlin, of July 13, 1878, which provided in regard to Rumania (Article 44):

"The difference of religious creeds and confessions shall not be alleged against any person as a ground for exclusion or incapacity in matters relating to the enjoyment of civil and political rights, admission to public employments, functions, and honors or the exercise of the various professions and industries in any localities whatsoever."

The Rumanians continued, however, to exclude the Jews from the right to hold land, from exercising certain professions, and from naturalization, not on the ground of their religion, but by professing to regard them as aliens, even in cases where several generations had been born in Rumania. For a Jew to acquire Rumanian nationality required an act of the legislature in each individual case. Needless to say, only an exceedingly small number of Jews were ever naturalized. The condition of the Rumanian Jews became so wretched that they emigrated in large num-

bers; moreover, arrests and expulsions were frequent. In spite of a number of protests on the part of the Powers, including protests by the American Government in 1872 and 1902, the condition of the Rumanian Jews remained practically unchanged until the great war. Until that time there was no international organization charged with supervision of the execution of international engagements in favor of minorities.

#### **GROWTH OF IDEA OF MINORITY RIGHTS**

Even before the war the idea of the rights of minorities had grown in Europe, particularly in Austria and Russia. The Austrian constitution of 1867 granted to minorities the right to be taught in their own language. Various socialist parties, at their national and international congresses, had proclaimed the right of the peoples to self-determination. During the war this slogan was widely adopted. In addition to the socialists, who at their congress at Stockholm in 1917 placed international protection of minorities on their program, a number of organizations advocated that principle. The "Organisation centrale pour la Paix durable" included in its minimum program the guarantee by the various states of civil equality, religious liberty and free use of their language to the minorities within their borders. One of its commissions had drawn up during the war a project for an international treaty for the protection of minorities.

The various Jewish organizations also became very much interested in the protection of minorities. Zionism, which developed greatly during the war, included the rights of minorities in its program. As the result of their activities, the Jewish organizations had received assurances before the armistice, from the various governments concerned, that the Jewish question would be dealt with at the Peace Conference. This opened the way for other minorities questions.

During the war, too, President Wilson had in his public speeches again and again declared in favor of self-determination. On January 22, 1917, before the United States

had entered the war, he said in discussing the principles which should determine the peace terms, "I take it for granted, for instance, . . . that henceforth inviolable security of life, of worship, and of industrial and social development should be guaranteed to all peoples who have lived hitherto under the power of governments devoted to a faith and purpose hostile to their own."

Similar pronouncements are found in a number of his subsequent speeches. The Fourteen Points do not, however, include a general principle safeguarding the rights of minorities. Instead, Point X calls for "the freest opportunity of autonomous development" for "the peoples of Austria-Hungary," and Point XII provides that "the other nationalities (non-Turkish) under Turkish rule should be assured an undoubted security of life and an absolutely unmolested opportunity of autonomous development."

In some of the drafts of a League Covenant which President Wilson prepared, he made more explicit provision for the protection of minorities. One version contained the following article:

"The League of Nations shall require all new states to bind themselves as a condition precedent to their recognition as independent or autonomous states, and the Executive Council shall exact of all states seeking admission to the League of Nations the promise, to accord to all racial or national minorities within their several jurisdictions exactly the same treatment and security, both in law and in fact, that is accorded the racial or national majority of their people."

This draft of the League Covenant contained a further article providing for freedom of religion. A similar article was included in the Hurst-Miller draft, upon which the final Covenant was based, but was left out of the final version.

#### **MINORITIES AND THE PEACE CONFERENCE**

In view of the great territorial changes effected by the peace treaties it was natural that the Peace Conference should concern itself with the problem of national minorities. In the case of some of the new states, the populations were inextricably mixed, so that it was impossible to make the boundaries follow racial



lines. In other cases, transfers of territory involved the transfer of large populations to alien rule. Under these circumstances it was necessary to take steps for the protection of these minorities in order to safeguard the peace of Europe.

The Powers might have provided for the protection of minorities through the Covenant of the League. As has been already stated, provisions of this nature were included in some of the early drafts, but were left out of the Covenant as finally adopted. Instead, the Principal Allied and Associated Powers required the states newly created and some of the states which were receiving important additions of territory to sign treaties guaranteeing certain rights to their minorities. Similar provisions were inserted in the treaties of peace with all the conquered states except Germany. It is noteworthy that no guarantees for the protection of minorities were required from any of the Great Powers, even though some of them, Italy for example, received substantial increases of territory inhabited by populations alien in race or language. Not unnaturally, states like Poland, Rumania, and the Serb-Croat-Slovene State resented having to undertake obligations in regard to minorities which were not undertaken by all states. They protested, but their protests were overruled by the Great Powers. The policy of the Principal Allied Powers was fully stated in a letter dated June 24, 1919 from M. Clemenceau, as President of the Peace Conference, to the Polish representative in answer to Polish objections. The following are extracts from this letter:

#### POLICY OF THE ALLIED POWERS

"1. In the first place, I would point out that this Treaty does not constitute any fresh departure. It has for long been the established procedure of the public law of Europe that when a State is created, or even when large accessions of territory are made to an established State, the joint and formal recognition by the Great Powers should be accompanied by the requirement that such State should, in the form of a binding international convention, undertake to comply with certain principles of government. This principle, for which there are numerous other precedents, received the most explicit sanction when, at the last great assembly of Euro-

pean Powers—the Congress of Berlin—the sovereignty and independence of Serbia, Montenegro, and Rumania were recognised. . . .

"2. The Principal Allied and Associated Powers are of opinion that they would be false to the responsibility which rests upon them if on this occasion they departed from what has become an established tradition. In this connection I must also recall to your consideration the fact that it is to the endeavors and sacrifices of the Powers in whose name I am addressing you that the Polish nation owes the recovery of its independence. It is by their decision that Polish sovereignty is being re-established over the territories in question and that the inhabitants of these territories are being incorporated in the Polish nation. It is on the support which the resources of these Powers will afford to the League of Nations that for the future Poland will to a large extent depend for the secure possession of these territories. There rests, therefore, upon these Powers an obligation, which they cannot evade, to secure in the most permanent and solemn form guarantees for certain essential rights which will afford to the inhabitants the necessary protection, whatever changes may take place in the internal constitution of the Polish State. . . ."

#### THE POST-WAR MINORITIES TREATIES

The Polish minorities treaty, signed on June 28, 1919, the date of signature of the treaty of peace with Germany, became the model for all the other minorities treaties signed at the Peace Conference.\* Following Poland's example, Czechoslovakia and the Serb-Croat-Slovene State signed minorities treaties on September 10, 1919, Rumania on December 9, 1919, and Greece and Armenia on August 10, 1920. Furthermore, similar provisions for the protection of minorities were inserted in the peace treaty with Austria, September 10, 1919, in the peace treaty with Bulgaria, November 27, 1919, in the peace treaty with Hungary, June 4, 1920, and in the peace treaty with Turkey, August 10, 1920. The minorities provisions of all these treaties were in general similar to those of the Polish minorities treaty, with such special provisions in each case as were rendered necessary by the special conditions of the country concerned. The Turkish treaty was much more far-reaching than the others. It never came into effect, through Turkey's failure to ratify, but was superseded by the treaty of Lau-

\*See Appendix for full text of the Polish minorities treaty.

sanne, of July 24, 1923, which contains a section on the protection of minorities similar to the minorities provisions of the various treaties mentioned above.

All these treaties have now come into effect with the exception of the Armenian treaty. (Armenia's existence as a separate independent state came to an end a few months after the signature of the 1920 treaty.) As far as their minorities provisions are concerned, all these treaties have been placed under the guarantee of the League of Nations, as explicitly provided in the treaties themselves.

#### **THE POLISH TREATY SUMMARIZED**

Since all these treaties are practically alike, it will suffice to summarize one of them, that with Poland, pointing out any important variations. The text of the minorities provisions of the Polish treaty will be found in the Appendix.

In Article 1, Poland undertakes that the stipulations of Articles 2 to 8 are to be recognized as part of the fundamental law of the land.

#### **NATIONALITY CLAUSES**

Article 2 provides for protection of life and liberty, and the free exercise of religion to all inhabitants of Poland without exception or distinction.

Article 3 grants Polish nationality to all those habitually resident within the territory forming part of Poland, whether they were German, Austrian, Hungarian or Russian nationals before the war. This grant of Polish nationality is subject only to exceptions provided for in the peace treaties. The persons in question have the right to opt for another nationality, but in case they exercise this right, they must move to the state for which they have opted.

Article 4 grants Polish nationality to former German, Austrian, Hungarian and Russian nationals born in what is now Polish territory of parents habitually resident there.

Article 5 safeguards the right of option of the persons concerned.

Article 6 provides that all persons born in Polish territory who are not born nationals of another state "shall, *ipso facto*, become Polish nationals."

#### **GENERAL RIGHTS**

Under Article 7 all Polish nationals are assured of equal civil and political rights, irrespective of their race, religion, or language. They are also assured the right to use any language "in private intercourse, in commerce, in religion, in the press or in publications of any kind, or at public meetings" as well as before the courts.

Article 8 guarantees the right of minorities in Poland to establish and manage their own charitable, religious, social and educational institutions, in which they may freely use their own language and exercise their religion.

Article 9 goes still further, providing that in the towns and districts where there is "a considerable proportion of Polish nationals of other than Polish speech" their children shall receive instruction through the medium of their own language in the primary schools. Furthermore, these minorities are assured a fair share in the application of public funds for educational, religious or charitable purposes.

Article 12 provides for supervision of the minorities clauses by the League of Nations, and for submission of disputes arising under them to the Permanent Court of International Justice.

Articles 1 to 9 and Article 12 are substantially repeated in all the minorities treaties of 1919-1920. In addition there are special provisions necessitated by local conditions. For example, under Articles 10 and 11 of the Polish treaty, special protection is given to the Jewish minority; among other things, Jews are not to be compelled to violate their Sabbath.

The Czechoslovak treaty, on the other hand, provides for complete local autonomy for the Ruthenians south of the Carpathians; it contains no special provisions in favor of the German minority, which is by far the most numerous minority group. The clause providing that children belonging to linguistic minorities are to receive instruction through the me-

dium of their own language in the public schools is given greater scope in the Czechoslovak treaty, applying not only to primary, but to secondary schools as well.

The Greek and Serb treaties contain special clauses dealing with Mohammedans, and the Turkish treaty (1923) special clauses protecting non-Moslems. The Rumanian treaty provides for local autonomy in educational and religious matters for Germans and Szeklers in Transylvania. Moreover, Rumania undertakes to recognize as Rumanian nationals, *ipso facto* and without special formalities, Jewish inhabitants of Rumania who do not possess another nationality.

#### LATER TREATIES

In addition to the minorities treaties signed in connection with the Paris Peace Conference, there have been concluded subsequently a number of international engagements for the protection of minorities. A number of these were undertakings toward the League of Nations made upon the League's initiative. In this category fall the declarations in regard to minorities required by the League from some of the states seeking membership in the League. Albania signed such a declaration on October 2, 1921; Lithuania on May 12, 1922; Latvia on July 7, 1923; Esthonia on September 17, 1923. In the case of Finland the government submitted a memorandum regarding the rights guaranteed by the constitution to minorities in Finland; the Council of the League took note of this memorandum on October 2, 1921. Furthermore, when the Aaland Islands were awarded to Finland, the Finnish Government gave guarantees for the autonomy of the islands. The guarantees were adopted by the Council on June 27, 1921.

In several of these cases, the pledges given were obtained by the League only after delicate and protracted negotiations.

Two conventions negotiated under the auspices of the League, namely the German-Polish convention concerning Upper Silesia, May 15, 1922, and the Memel Convention and Statute, May 8, 1924, likewise contain provisions for the protection of minorities. The convention concerning Upper Silesia has a whole section containing

elaborate provisions for the protection of Polish minorities in German Upper Silesia and of German minorities in Polish Upper Silesia.

In addition to the treaties and engagements concluded under the auspices of the League, a number of other agreements relating to minorities have been entered into since the war. For example, Austria and Czechoslovakia concluded a treaty on June 7, 1920 and an additional convention on August 23, 1920 which dealt with Czech minorities in Austria and Austrian minorities in Czechoslovakia. Similarly, agreements have been signed between Poland and Danzig to protect the Polish minority in Danzig.

#### RECIPROCAL EMIGRATION

Quite a different method of dealing with the minorities problem is provided for in the reciprocal emigration convention between Greece and Bulgaria (November 27, 1919) and the Greco-Turkish convention of January 30, 1923. These conventions are of particular interest as constituting a totally new departure in dealing with the minorities problem. It is an attempt to make the ethnic boundaries coincide with the political boundaries by means of wholesale deportations of the minorities on the wrong side of the line. The idea of an exchange of populations was advocated as long ago as the close of the Second Balkan War, in 1913, by M. Venizelos. At that time the idea was not carried out, but it was again advocated by M. Venizelos at the Paris Peace Conference, resulting in the Greco-Bulgarian Convention. It was Dr. Nansen who advocated the idea before the Lausanne Conference, at which the Greco-Turkish Convention was signed.

In the Greco-Bulgarian agreement, the parties agree to place no obstacles in the way of the *voluntary* emigration of minorities "to their respective territories." The treaty further provides that the government concerned shall buy the real property of the would-be emigrants, at a value and under conditions fixed by a mixed commission of four members, Greece and Bulgaria nominating each one member, and the Council of the League the other two.



The period allowed for depositing declarations of intention to emigrate expired December 31, 1924. The commission is still functioning.

The Greco-Turkish reciprocal emigration convention goes beyond the Greco-Bulgarian one in that it provides for *compulsory* exchange of Moslems in Greece and Greek Orthodox Christians in Turkey, with certain carefully defined exceptions. This convention also provides for liquidation by a mixed commission of the real property of the emigrants, as well as the movable property left behind.

Before the Greco-Turkish convention had been signed, great migrations had taken place both in Macedonia and in Asia Minor as a result of the war and the massacres. In the Greco-Turkish war which broke out in 1919, about 200,000 Turks were driven from their homes, whereas over a million Greek refugees fled to Greece from Asia Minor after the Smyrna disaster in 1922.

After the compulsory exchange convention had been signed a great many Turks and Greeks liable to deportation were exchanged through the Near East Relief and other relief agencies. The Mixed Commission provided for in the convention began functioning in January 1924, and in one year it carried out the evacuation of 400,000 Moslems from Macedonia into Anatolia, and of 100,000 Greeks from Asia Minor to Greece.

There is no doubt that the application of the convention has meant great hardship and appalling suffering to the persons who have had to leave their homes, mostly against their will, to suffer from crowding, disease and exposure on the journey, and perhaps to find uncongenial surroundings and less remunerative work in their new place of abode. Furthermore, the execution of the convention has meant a terrific drain on the already depleted treasuries of the countries concerned. In the long run, however, the acquisition of large numbers of thrifty and hard-working citizens will be an important asset to Greece. Similarly, the Moslems of Macedonia will fill the places left empty by the departure of the Greeks from Anatolia. It is to be hoped that the results of the compulsory exchange will be such as to justify all the suffering involved.

## LEAGUE SUPERVISION FOR MINORITIES

The most important new feature of the agreements for the protection of minorities negotiated at the Paris Peace Conference and after is the provision placing them under the guarantee of the League of Nations. Heretofore there had been no international organization to watch over the execution of similar agreements. In the letter of M. Clemenceau to M. Paderewski, mentioned above, the innovation is described in the following words:

"It is indeed true that the new Treaty differs in form from earlier Conventions dealing with similar matters. The change of form is a necessary consequence and an essential part of the new system of international relations which is now being built up by the establishment of the League of Nations. Under the older system the guarantee for the execution of similar provisions was vested in the Great Powers. Experience has shown that this was in practice ineffective, and it was also open to the criticism that it might give to the Great Powers, either individually or in combination, a right to interfere in the internal constitution of the States affected which could be used for political purposes. Under the new system the guarantee is entrusted to the League of Nations. The clauses dealing with this guarantee have been carefully drafted so as to make it clear that Poland will not be in any way under the tutelage of those Powers which are signatories to the Treaty."

The wording of the article providing for the guarantee of the League (Article 12 of the Polish treaty) is the same, *mutatis mutandis*, in the minorities treaties with Poland, Czechoslovakia, Greece, the Serb-Croat-Slovene State and Rumania, and in the minorities sections of the peace treaties with Austria, Bulgaria, Hungary, and Turkey, as well as in the Albanian and Lithuanian declarations regarding minorities.

Under Article 12 of the Polish treaty, Poland recognizes the preceding minorities provisions as "obligations of international concern," to be placed under the guarantee of the League, and not to be modified without the consent of a majority of the League Council. Poland further recognizes the right of any Council member "to bring to the attention of the Council any infraction, or any danger of infraction, of any of these obligations, and that the Council may there-



upon take such action and give such direction as it may deem proper and effective in the circumstances."

Finally, Article 12 provides that any dispute arising out of the minorities provisions between Poland and one of the other signatories or any other state member of the Council shall be submitted, at the request of the other party, to the Permanent Court of International Justice, whose decision shall be final.

#### LEAGUE PROCEDURE

The procedure followed in regard to minorities questions has been elaborated by the Council in a number of resolutions, namely those of October 22 and 25, 1920, June 27, 1921, September 5, 1923 and June 10, 1925. Under the system as worked out, all members of the Council retain the right granted them by the treaties to call to the attention of the Council any infraction of the minorities provisions. In addition, petitions calling attention to such infractions may be addressed to the League by or on behalf of the minorities themselves. According to the resolution of September 5, 1923, such petitions, in order to be received,

- "(a) must have in view the protection of minorities in accordance with the treaties;
- "(b) in particular, must not be submitted in the form of a request for the severance of political relations between the minority in question and the state of which it forms a part;
- "(c) must not emanate from an anonymous or unauthenticated source;
- "(d) must abstain from violent language;
- "(e) must contain information or refer to facts which have not recently been the subject of a petition submitted to the ordinary procedure."

The Minorities Section of the League Secretariat examines the petitions first to see that they conform to these rules. The government of the state in which the minority lives is given the opportunity of presenting its observations. After the specified time has elapsed, the petition, together with the relevant documents, is examined by a minorities committee of the Council, consisting of the President and two other members.

None of the members of this committee may be representatives of the state concerned, or of one of its neighbors, or of a state a majority of whose population is of the same race as the minority concerned. This rule is intended to insure an unbiassed examination of each case. After examination of the documents one or more members of the committee may formally refer the question to the Council, which then takes what action it sees fit; or the committee may recommend that no action be taken. Any other member of the Council may also refer the question to the Council. The documents are always communicated to all Council members, and may be obtained by any League member upon request.

#### THE LEAGUE'S RECORD

A great many petitions dealing with minorities have been presented to the League of Nations. It is not known how many, since the minorities committees meet in private and keep no formal minutes. Moreover, a number of petitions are dealt with only by the Minorities Section of the League Secretariat, which examines them first to see whether they fulfill the requirements.

The Minorities Section is also responsible for promoting good relations between the minorities and the governments to which they are subject, by means of "benevolent and informal communications," as suggested by a resolution of the Third Assembly in 1922. In this way a number of minorities problems are solved before they ever reach the Council.

Even though a good many minorities problems are disposed of by these preliminary methods, an examination of the records of the Council show that a great many such questions have been dealt with by the Council. Among these may be mentioned the expulsion of Bulgarians from Western Thrace by the Greek Government, the application of the Hungarian Law XXV of 1920 (Numerus Clausus) as it affects the admission of Jews to Hungarian universities, the expropriation of settlers of German race in Poland, the question of the acquisition of Polish nationality by certain categories of former German nationals, the question of German schools in Polish Upper Silesia, the

expropriation of the lands of settlers of Hungarian race in Rumania, the education of Bulgarian minorities in Greece, the situation of minorities in Lithuania, the situation of minorities in Albania. In a number of cases affecting minorities, namely that of the German settlers in Poland, the acquisition of Polish nationality and the exchange of Greek and Turkish populations, the Permanent Court of International Justice delivered advisory opinions at the Council's request.

This list, which is not exhaustive, shows the variety of problems which arise under the minorities treaties. In all cases brought before the Council, as well as in those examined by the minorities committees, the government accused of not living up to its obligations has to defend its position, and when the accusation is proved to be well founded, must undertake to change its policy. Publicity is probably the most important factor in forcing governments to deal fairly with their minorities.

#### EXECUTION OF MINORITIES TREATIES

The great number of complaints and problems which have arisen in connection with minorities since the war emphasizes the fact that the successful working of the system established by the minorities treaties depends largely upon the goodwill and fairness of the governments concerned. The wording of the treaties is sufficiently vague so that ways are left open to violate their spirit and intent, while abiding by their letter.

For example, there is the clause providing that differences of language, race or religion shall not prejudice any nationals of the state concerned in regard to admission to public employment. Czechoslovakia, which is generally considered to have a good record in regard to her minorities policy, has by law established Czechoslovak as the official language of the republic and has made it obligatory for state employees to know the official language. Thus the Czech and Slovak majority is placed in a privileged position.

The clause providing for public school instruction in their own language for the

children of a linguistic minority in those districts where it constitutes a "considerable proportion" of the population, is open to very wide interpretations. In Czechoslovakia, twenty per cent has been established as the proportion required, even for the right to use a minority language before the courts, although the treaty safeguards this right without any qualification or restriction. Furthermore, the German minority in Czechoslovakia complains that electoral and judicial districts are bounded in such a way as to prevent the Germans from constituting a majority, for instance by including Slav-speaking country districts with predominantly German towns. The German minority also charges that partiality has been shown to the Czech universities at the expense of the German universities, and that the expropriation of landed property has been carried out in such a way as to favor the Czechs.

#### THE BALKAN PROBLEM

If such dissatisfaction exists in a country whose minorities policy is admittedly liberal, naturally the situation is worse in the Balkans where intense racial and religious animosity has existed for so long and where the public opinion of the world is less likely to make itself felt. There is no doubt that the minorities in the Balkan countries are still far from having attained the measure of protection guaranteed them under the treaties. In Rumania, to take only one example, there have been numerous complaints on the part of the Hungarian inhabitants of Transylvania and the Banat. The situation of certain religious minorities in Transylvania, which in this case practically coincide with the Hungarian minority, was investigated by an American committee in 1924. It appears from the report of the committee that these minorities are discriminated against by means of various laws and regulations, and that they are subject to violence and corruption on the part of the Rumanian officials. For example, many denominational schools belonging to the Hungarian minority have been closed on some pretext or other, such

as that they were used to foster irredentism.

### RECIPROCAL OBLIGATIONS

That there is another side to the minorities question has, however, been recognized, among others, by the Assembly of the League, which adopted the following resolution in 1922:

"While the Assembly recognizes the primary right of the minorities to be protected by the League from oppression, it also emphasizes the duty incumbent upon persons belonging to racial, religious or linguistic minorities to co-operate as loyal fellow-citizens with the nations to which they now belong."

The same point of view was expressed by one of the delegates at the Council session in December, 1925:

"It seems to me obvious that those who conceived this system of protection did not dream of creating within certain States a group of inhabitants who would regard themselves as permanently foreign to the general organization of the country. On the contrary, they wished the elements of the population contained in such a group to enjoy a status of legal protection which might ensure respect for the inviolability of the person under all its aspects and which might gradually prepare the way for conditions necessary for the establishment of a complete national unity."

### MINORITIES OUTSIDE LEAGUE'S COMPETENCE

Whereas the minorities in the states which have signed minorities treaties and declarations can have recourse to the League by presenting petitions, minorities in other countries have no form of international protection. This applies to Germans in Alsace-Lorraine, restored to France, in Slesvig, restored to Denmark, and in the territory ceded to Belgium, as well as to Austrians and Slavs in the territories ceded to Italy after the war. It also applies to minorities in Germany, exclusive of Upper Silesia.

The Germans under Belgian rule are numerically negligible. Denmark's policy toward her German minority apparently gives no ground for complaint. The situation is quite otherwise as regards the German-speaking Austrians of Southern Tyrol, now under Italian sovereignty.

Not only at the Peace Conference, but on various occasions since then have the

states required to sign minorities treaties attempted to have the minorities obligations made universal in their scope. This has never been accomplished, but all the members of the League are morally bound by the following resolution adopted by the Assembly in 1922:

"The Assembly expresses the hope that the States which are not bound by any legal obligations to the League with respect to minorities will nevertheless observe in the treatment of their own racial, religious or linguistic minorities at least as high a standard of justice and toleration as is required by any of the Treaties and by the regular action of the Council."

Italy is also morally bound by a number of declarations publicly made by men in official positions. For example, the reply of the Allied and Associated Powers, dated September 2, 1919, to the Austrian observations on the peace treaty states:

"It results from the very clear declarations made by the President of the Council of Italian Ministers to the Parliament at Rome that the Italian Government proposes to adopt a broadly liberal policy towards its new subjects of German race, in what concerns their language, culture, and economic interests."

In spite of such assurances, the Italian Government has for a number of years been carrying on an intensive Italianization of South Tyrol. All place names were changed from German to Italian by royal decree in 1923. All public announcements, signs, time tables, tickets and so on must be printed in Italian, using the Italian place names. The use of the name South Tyrol is forbidden; any newspaper using it is confiscated. As regards family names, a royal decree of January 10, 1926 provides that all names of Italian origin which have been translated into another language or "deformed" by foreign spelling must be restored to their original forms; further use of the German form is punished by fines.

In the schools German as the language of instruction is being gradually driven out; every year one more class is taught exclusively in Italian. Private schools taught in German are forbidden. Italian is used exclusively in the courts, except where it is proved that the witness or the accused does not know Italian. The administrative officials are all Italians who

do not know German. They are out of sympathy with the population, who accuse them of petty tyranny. Even though they have become Italian citizens the inhabitants are helpless, since a royal decree of January 10, 1926 provides that optants may be deprived of their Italian citizenship by action of the prefect, if they show themselves unworthy.

The situation of the German-speaking inhabitants of the South Tyrol has already caused international friction between Germany and Italy and between Austria and Italy. Agitation in Germany led in February 1926 to a bellicose speech by Mussolini, to which Stresemann replied, and which was answered, somewhat more moderately, by Mussolini. Though temporarily in abeyance, the question of the South Tyrolian minority is not settled. Stresemann definitely stated in his speech that Germany will champion the cause of German minorities in the League of Nations when she has become a member.

#### PRECARIOUS POSITION OF MINORITIES

Considering the situation as a whole, it must be admitted that in a number of countries where minorities problems have existed in a more or less acute form for centuries, these minorities have been accorded, as a result of the war, a legal status and protection, internationally guaranteed, which they did not formerly possess. This applies only to those countries which were obliged to sign treaties providing for the protection of their minorities as a part of the settlement after the war, and to those states which have undertaken similar obligations upon admission to membership in the League of Nations. As yet there is no general international convention safeguarding the rights of all minorities. And even in the countries bound by such treaty obligations, it is apparent that the value of the treaty provisions depends upon the spirit in which they are carried out.

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## APPENDIX

## Text of the Minorities Provisions of the Treaty of June 28, 1919, between Poland and the Principal Allied and Associated Powers.

## CHAPTER I

## Article 1

Poland undertakes that the stipulations contained in Articles 2 to 8 of this Chapter shall be recognised as fundamental laws, and that no law, regulation or official action shall conflict or interfere with these stipulations, nor shall any law, regulation or official action prevail over them.

## Article 2

Poland undertakes to assure full and complete protection of life and liberty to all inhabitants of Poland without distinction of birth, nationality, language, race or religion.

All inhabitants of Poland shall be entitled to the free exercise, whether public or private, of any creed, religion or belief, whose practices are not inconsistent with public order or public morals.

## Article 3

Poland admits and declares to be Polish nationals, *ipso facto* and without the requirement of any formality, German, Austrian, Hungarian or Russian nationals habitually resident at the date of the coming into force of the present Treaty in territory which is or may be recognised as forming part of Poland, but subject to any provisions in the Treaties of Peace with Germany or Austria respectively relating to persons who became resident in such territory after a specified date.

Nevertheless, the persons referred to above who are over eighteen years of age will be entitled under the conditions contained in the said Treaties to opt for any other nationality which may be open to them. Option by a husband will cover his wife, and option by parents will cover their children under eighteen years of age.

Persons who have exercised the above right to opt must, except where it is otherwise provided in the Treaty of Peace with Germany, transfer within the succeeding twelve months their place of residence to the State for which they have opted. They will be entitled to retain their immovable property in Polish territory. They may carry with them their movable property of every description. No export duties may be imposed upon them in connection with the removal of such property.

## Article 4

Poland admits and declares to be Polish nationals, *ipso facto* and without the requirement of any formality, persons of German, Austrian, Hungarian or Russian nationality who were born in the said territory of parents habitually resident there, even if at the date of the coming into force of the pres-

ent Treaty they are not themselves habitually resident there.

Nevertheless, within two years after the coming into force of the present Treaty, these persons may make a declaration before the competent Polish authorities in the country in which they are resident, stating that they abandon Polish nationality, and they will then cease to be considered as Polish nationals. In this connection a declaration by a husband will cover his wife, and a declaration by parents will cover their children under eighteen years of age.

## Article 5

Poland undertakes to put no hindrance in the way of the exercise of the right which persons concerned have, under the Treaties concluded or to be concluded by the Allied and Associated Powers with Germany, Austria, Hungary or Russia, to choose whether or not they will acquire Polish nationality.

## Article 6

All persons born in Polish territory who are not born nationals of another State shall, *ipso facto*, become Polish nationals.

## Article 7

All Polish nationals shall be equal before the law and shall enjoy the same civil and political rights without distinction as to race, language or religion.

Differences of religion, creed or confession shall not prejudice any Polish national in matters relating to the enjoyment of civil or political rights, as, for instance, admission to public employments, functions and honors, or the exercise of professions and industries.

No restriction shall be imposed on the free use by any Polish national of any language in private intercourse, in commerce, in religion, in the press or in publications of any kind, or at public meetings.

Notwithstanding any establishment by the Polish Government of an official language, adequate facilities shall be given to Polish nationals of non-Polish speech for the use of their language, either orally or in writing, before the courts.

## Article 8

Polish nationals who belong to racial, religious or linguistic minorities shall enjoy the same treatment and security in law and in fact as the other Polish nationals. In particular, they shall have an equal right to establish, manage and control at their own expense charitable, religious and social institutions, schools and other educational estab-

ishments, with the right to use their own language and to exercise their religion freely therein.

#### *Article 9*

Poland will provide in the public educational system in towns and districts in which a considerable proportion of Polish nationals of other than Polish speech are residents adequate facilities for ensuring that in the primary schools the instruction shall be given to the children of such Polish nationals through the medium of their own language. This provision shall not prevent the Polish Government from making the teaching of the Polish language obligatory in the said schools.

In towns and districts where there is a considerable proportion of Polish nationals belonging to racial, religious or linguistic minorities, these minorities shall be assured an equitable share in the enjoyment and application of the sums which may be provided out of public funds under the State, municipal or other budget, for educational, religious or charitable purposes.

The provisions of this Article shall apply to Polish citizens of German speech only in that part of Poland which was German territory on August 1, 1914.

#### *Article 10*

Educational Committees appointed locally by the Jewish communities of Poland will, subject to the general control of the State, provide for the distribution of the proportional share of public funds allocated to Jewish schools in accordance with Article 9, and for the organisation and management of these schools.

The provisions of Article 9 concerning the use of languages in schools shall apply to these schools.

#### *Article 11*

Jews shall not be compelled to perform any act which constitutes a violation of their Sabbath, nor shall they be placed under any disability by reason of their refusal to attend courts of law or to perform any legal business on their Sabbath. This provision, however, shall not exempt Jews from

such obligations as shall be imposed upon all other Polish citizens for the necessary purposes of military service, national defence or the preservation of public order.

Poland declares her intention to refrain from ordering or permitting elections, whether general or local, to be held on a Saturday, nor will registration for electoral or other purposes be compelled to be performed on a Saturday.

#### *Article 12*

Poland agrees that the stipulations in the foregoing Articles, so far as they affect persons belonging to racial, religious or linguistic minorities, constitute obligations of international concern and shall be placed under the guarantee of the League of Nations. They shall not be modified without the assent of a majority of the Council of the League of Nations. The United States, the British Empire, France, Italy and Japan hereby agree not to withhold their assent from any modification in these Articles which is in due form assented to by a majority of the Council of the League of Nations.

Poland agrees that any member of the Council of the League of Nations shall have the right to bring to the attention of the Council any infraction, or any danger of infraction, of any of these obligations, and that the Council may thereupon take such action and give such direction as it may deem proper and effective in the circumstances.

Poland further agrees that any differences of opinion as to questions of law or fact arising out of these Articles between the Polish Government and any one of the Principal Allied and Associated Powers or any other Power, a Member of the Council of the League of Nations, shall be held to be a dispute of an international character under Article 14 of the Covenant of the League of Nations. The Polish Government hereby consents that any such dispute shall, if the other party thereto demands, be referred to the Permanent Court of International Justice. The decision of the Permanent Court shall be final and shall have the same force and effect as an award under Article 13 of the Covenant.